

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Ottawa, Canada K1A 1J4

June 24, 2026

By Email

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Dear Parties:

**Re: FNCFCSC and AFN v. AGC
Tribunal File: T1340/07008**

Dear Parties,

This letter is in response to Canada's letter dated June 18, 2026, concerning Jordan's Principle interim issues.

First, the newly interested parties authorized for limited intervention in the proceedings more generally were not authorized to participate in the Jordan's Principle interim issues and process, as clearly stated in the Tribunal's reasons and orders. The Tribunal invites Canada to read those reasons and orders again. The Tribunal will not expend further time and resources on this point. The new interested parties are not copied on correspondence relating to the Jordan's Principle interim issues, and the Tribunal's correspondence is not translated for that reason. Interim proceedings are intended to remain interim and must move forward in an unencumbered manner.

This issue was considered by the Tribunal when it issued its rulings and is not open for further debate.

At the CMCC, the Caring Society proposed two interim matters for the Tribunal's immediate attention, together with a streamlined process for addressing interim issues moving forward.

The COO and NAN indicated that they did not have instructions on the process proposed by the Caring Society. However, they made submissions and expressed a preference for a non piecemeal approach to the interim issues. The Tribunal considered those submissions, agreed with that approach, and reflected it in its direction.

Canada opposed an informal process and requested that the matter proceed by way of motion. At the beginning of the CMCC, the Panel understood Canada's position to be that it wished to seek instructions from its client before making further submissions, and Canada was afforded that opportunity.

00:27:29.780 --> 00:27:40.060

Sophie Marchildon: Thank you very much. Do you have any, response about substantive equality, the questions that were posed to you by Mr. Taylor? If, if you have...

00:27:40.280 --> 00:27:50.560

Kevin Staska (Canada): I honestly need to take instructions on all of that, Member Marshall. I would not expect those questions today, so if I had prepared for them, I would certainly have had an answer for them, but I just don't. Thank you.

00:27:50.560 --> 00:27:59.070

Sophie Marchildon: Yeah, that's fair. Okay, so we'll move on to Chiefs of Ontario. Sorry, I'll go with AFN first (...).

However, further exchanges with the Panel clarified Canada's position. Canada ultimately stated that it preferred that the Tribunal issue a direction identifying the questions so that it could then seek instructions from its client, rather than obtaining instructions before the Tribunal issued its direction. This latter exchange is reproduced below in italics.

The Tribunal heard the parties' submissions on the process proposed by the Caring Society at the CMCC and reserved its decision for deliberation, as was expressly communicated to the parties. If the parties had been expected to discuss and agree upon a process before the Tribunal issued any direction, there would have been no reason for the Tribunal to reserve its decision for deliberation.

The Tribunal also asked whether the parties wished to file any additional submissions. None of the parties indicated that they wished to do so. Canada declined that opportunity.

00:56:15.330 --> 00:56:23.679

Sophie Marchildon: Thank you for asking, though. Is there anything else that someone would like to discuss?

We have just a few minutes.

00:56:23.830 --> 00:56:36.070

Kevin Staska (Canada): Yes, Member Marshal Don, Member Lustig, I just wanted to make sure that, Mr. Taylor made reference to the idea of further supplemental submissions. I... every time I hear this.

00:56:36.070 --> 00:56:48.080

Kevin Staska (Canada): type of activity in this file, that means everybody's going to want to make responding submissions, and so we go. I'm really hoping that we can... this... that we're not going to end up in that type of space.

00:56:48.190 --> 00:56:53.549

Kevin Staska (Canada): So just my... again, an observation, I just wanted to keep things,

00:56:53.550 --> 00:57:13.090

Kevin Staska (Canada): efficient, if for lack of a better word, and support that with that comment there. And the other clarification I just wanted to make is that what we'll be doing, just to make sure it's clear, we'll be waiting for your direction in terms of next steps, and then we'll follow through accordingly. Like, we're not going to be providing any further information until

00:57:13.170 --> 00:57:16.599

Kevin Staska (Canada): Such time as you've issued your directions.

00:57:17.360 --> 00:57:25.400

Sophie Marchildon: Thank you for asking the question. Actually, I was mindful that you said that you didn't have instructions on some of the requests made by the Caring Society, so I was anticipating that you might want a little bit more time, and then the Caring Society was saying, if there is more time, then it should be short.

00:57:40.190 --> 00:57:42.409

Sophie Marchildon: So that's where I was getting at.

00:57:42.960 --> 00:57:57.999

Kevin Staska (Canada): So, I suppose with respect to whatever the questions are, my preference is to have them in a direction, because then I can take that back to the clients, and the clients can read them, and then we can have a much more accurate response back. It'll be better tailored.

The Tribunal understood Canada's position as consenting to a Tribunal-directed list of questions and established a process accordingly. The Tribunal included its own questions on substantive equality. As the remaining questions would originate from the Caring Society and potentially the other parties, they were also incorporated into that process. At this stage, the Tribunal does not know what those questions will be.

This approach is not without precedent. During the compensation proceedings, the parties posed specific questions to the Tribunal. All parties were afforded an opportunity to make submissions. The Tribunal ruled on certain questions immediately and, where necessary, requested additional information before rendering a decision. This was part of the previous process in these proceedings, which the Caring Society indicated had worked well in the past. See for example, 2020 CHRT 7, <https://canlii.ca/t/jd0vb> .

The Tribunal must begin somewhere. There is no intention to circumvent Canada's important participation, views, or assistance in this process. Nor is there any intention to deprive Canada of the opportunity to oppose particular questions, advance its interpretation, make submissions, or argue that further evidence is required and that an appropriate process should be established before a question can be determined. The Tribunal is also mindful of Canada's submissions regarding: “*what remains in terms of addressing the backlog is really operational and structural issues that, for the most part, this is something that just needs to be done by Indigenous Services Canada*”.

The direction concerns the crafting of questions relating solely to the implementation of 2025 CHRT 6. Substantive equality is plainly within the scope of that decision. The Tribunal was unaware of the Minister's comments regarding the decision matrix. The Tribunal used the same wording as the Caring Society because it sought to understand how decisions are made using substantive equality in light of the Tribunal's orders in 2025 CHRT 6, the lack of progress in the parties' mediation, and Ms. Anderson's comments during a previous CMCC.

The facts are as follows:

2025 CHRT 6 was released.

The parties attempted mediation, but no resolution was reached.

The Tribunal's orders contemplated the possibility of the parties returning to the Tribunal on the orders, whether on consent or otherwise.

The Complainants and the COO have indicated in two case managements that they wish these proceedings to move forward on these interim matters, and the Tribunal agrees.

The Tribunal intends to move forward with its interim orders. Interim should remain just that: interim, not long-term.

The Tribunal simply decided to proceed by way of an informal process. In doing so, it did not predetermine any of the questions that the Caring Society may raise. Rather, it established a process through which the parties may make submissions as to whether they agree or disagree with a particular question, whether they believe the Tribunal cannot answer the question without further evidence, or any other related submissions they wish to make. The Tribunal also provided an opportunity for further discussions with the parties where a particular question may require additional evidence and to determine how such issues should be addressed.

There is no unfairness in this process. All parties had an opportunity to be heard at the CMCC. Although Canada, COO and NAN indicated that they did not have instructions, none requested an opportunity to make further submissions at a later date. Canada, in particular, declined the opportunity to make additional submissions at that stage.

Nevertheless, the process expressly provides a future opportunity for any party to object to a question and explain the basis for that objection. Any party may also raise additional questions before the questions are filed or, if necessary, in response to the questions once they have been received. Similarly, any instructions received by Canada to oppose the process or particular questions may be reflected in its submissions at that stage. All such submissions will be carefully considered by the Panel once they have been received before any determination is made.

The Tribunal must first review the questions to understand their specifics and determine the appropriate course from there.

There is no intention to embark upon a broad inquiry into Jordan's Principle beyond the parameters established in 2025 CHRT 6. Canada's submissions are premised on assumptions that are inaccurate.

The Tribunal is focused on completing its decision, with reasons, on the OFA. It is not inviting an expansion of these proceedings beyond the issues that remain live before it.

For these reasons, the Tribunal is not modifying its direction at this time. Should Canada oppose some or all of the questions once they are identified, it will have the opportunity to make submissions at that time. The Tribunal accepts that some of the questions, once received, may require more than two weeks to respond to. Whether additional time is warranted is best determined once those questions have been received. Canada may make brief submissions to that effect, and any such submissions will be carefully considered by the Tribunal before any determination is made.

In sum, while the parties did not succeed in a dialogic approach among themselves, the Tribunal is turning to this approach between itself and the parties, and their differing views.

If questions are best addressed with supporting evidence, a specific process will be established with the parties.

The parties will not expand their questions beyond the items set out in the orders in 2025 CHRT 6.

Should you have any questions, please do not hesitate to contact the Registry Office by e-mail at registry.office@chrt-tcdp.gc.ca by telephone at (343) 542-8948 or by fax at 613-995-3484.

Yours truly,

Amanda Wilkes
Registry Officer